THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.14029 of 2006

DATED 23.11.2006

Between:
Smt. K.M. Sarojini. .. PETITIONER

versus

The Government of Andhra Pradesh,
represented by its Secretary, Municipal
Administration, Secretariat, Hyderabad
and two others. .. RESPONDENTS

WRIT PETITION NO.14029 of 2006

ORDER:

Smt.K.M.Sarojini, the writ petitioner, filed the present Writ Petition praying for a Writ, order or direction more particularly one in the nature of Writ of Mandamus directing the respondents to sell and allot quarter No.8, situated at Alapati Municipal Colony, Amalapuram, East Godavari District to the petitioner as per GO Ms.No.56, dated 20.10.1989 and pass such other suitable orders.

2. Heard the learned counsel for the petitioner Sri Syam Prasad Katru and the learned Government Pleader for General Administration Department representing respondents 1 and 2 and also the learned Standing Counsel Sri S.Nageswara Reddy representing the 3rd respondent.

3. It is stated that the petitioner is the original allottee of LIGH quarter No.8 situated at Alapati Municipal Quarters, Amalapuram by the 3rd respondent on hire purchase scheme as per GO Ms No.2018, dated 3.9.1958 read with GM Ms.No.56, dated 28.10.1989 allotted in the year 1966 on sale and allotment basis. The State Government has

received Central Government assistance by taking 'insurance housing loan' and the same was repaid by the Central Government and debt was fulfilled. Therefore, the respondents are only to safeguard the process and collect rents, water taxes providing current to the tenants. It is stated that the petitioner is living in the quarter No.8 from the date of allotment and paying regularly rents, electricity bills, water cess etc., and she is in possession of the above said quarter since four decades without any objection from any authority. The petitioner had invested hard earned money for the repairs, renovation and maintenance etc., on the above said quarter and the said quarter is only the shelter and there is no other house in any where in the village or any other place as the petitioner is the widow and entirely depending on her pension amount and her possession is shown in the municipal records from the date of allotment of the quarter. It is also stated that while so, the Government had issued GO Ms.No.56, dated 20.10.1989, if the petitioner satisfies all the requirements stated in the said Governmental Order, then she shall be entitled for the allotment of the quarter on the said monetary terms as may be prescribed in the Government order. Meanwhile, the respondents issued several notices for allotment of the houses subject to conditions of GO Ms.No.56, dated 20.10.1989. It is also stated that the respondents asked the petitioner several times to give her consent for registration of the said quarter on her name and she had submitted all the required documents and also given her consent. In spite of several requests and reminders, the respondents have not made any efforts to register the said quarter in favour of the petitioner and therefore the action of the respondents in not registering the quarter on her name is arbitrary and violative of Article 14 of the Constitution of India, which amounts to deprivation of property protected under Article 300-A of the Constitution of India. It is also stated that when the matter stood thus, one Moram Nageshwar Rao, a retired Revenue Inspector of

Amalapuram Municipality and allottee of quarter No.10 had filed Writ Petition No.14755 of 1990 before this Court against the impugned memo, which was issued by the respondents directing him to vacate the quarter and this Court passed the following order in the above Writ Petition, in favour of the petitioner.

> "In the circumstances, the impugned memo issued by the Government dated 6.9.1990 is quashed and set aside. Now the Government will consider the request of the petitioner after hearing him and in accordance with the directions initiated in GO Ms.No.56, dated 20.10.1989. It is needless to mention that if the petitioner satisfies all the requirements stated in the said governmental order, then he shall be entitled for the allotment of the quarter on the said monetary terms as may be prescribed in the government order.
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> The writ petition is allowed to the extent indicated above. No costs".

It is also stated that the petitioner earlier filed WP No.1318 of 2006 for allotment of quarter and this Court dismissed the same Writ Petition directing the respondents to resubmit the proposals. Further, this Court had directed that the petitioners are at liberty to pursue the matter with the respondents, who shall take action in accordance with the provisions of A.P. Municipalities Act, 1965. In spite of the representations of the petitioner, the respondents have not taken any action in allotting the quarter by following due process of law. Further, the respondents are threatening the petitioner to vacate the quarter illegally and high-handedly.

4. In the counter affidavit filed by respondents 1 and 2 it is stated that it is a fact that the petitioner had been allotted quarter No.8 during the year 1968, which was purely on rental basis, but it is false to say that the petitioner is paying rent regularly. The Municipal Commissioner, Amalapuram, in Roc. No.6895/1980/A1, dated 21.8.2006 had informed that the petitioner is due an amount of

Rs.34,200/- towards rent from the year 1998-99 to 2006-07. Further, it is stated that it is also not true that the petitioner is residing in the said quarter since a long time as the Municipal Commissioner, Amalapuram had submitted that she is not residing in the said quarter since many years and the quarter is surrounded by bushes due to lack of habitation. It is also stated that the petitioner executed an affidavit on 1.4.2002 stating that she is residing at plot No.196, Visalakshinagar, Visakapatnam, which itself is a proof that she is not residing in the LIGH quarter No.8 at Amalapuram.It is also stated that it is a fact that Government in GO Ms.No.56, Housing, Municipal Administration and Urban Development, dated 28.10.1989 had issued orders to allot the LIGH quarters to the persons who are in occupation of the same prior to October, 1986 as a special case. Accordingly, vide letter Roc No.6895/80/A1, dated 10.5.2001, the Municipal Commissioner, Amalapuram had submitted proposal for allotment of LIGH quarters to the nine individuals on hire purchase basis. As the information furnished by the Municipal Commissioner, Amalapuram was inadequate, he was requested to furnish further information in the matter and the same is still under correspondence. The other allegations were denied. It is also stated that after the issue of judgment dated 31.1.2006 by this Court in Writ Petition No.1318 of 2006, Sri Syam Prasad Katru, Advocate, on behalf of the petitioner, submitted a representation on 18.2.2006 to this office, wherein he had stated to take action for sale and allotment of LIGH quarters to the individuals within 7 days from the date of receipt of the notice. Responding to the above representation, the required information had been called for in the office letter Roc No.9339/2001-H3, dated 7.6.2001, and subsequent reminders were not received in full shape from the Municipal Commissioner, Amalapuram, which is mandatory for forwarding proposals to the Government for allotment of LIGH quarters on hire purchase basis. The Municipal Commissioner,

Amalapuram, was once again requested to send the same vide this office DO Lr.ROC No.9339/2001/H3, dated 7.3.2006 and the said information was received only on 24.8.2006 and the matter is under consideration. It is also stated that it is completely false that the municipal authorities are threatening the petitioner to vacate the quarter or this office is not initiating any action on the representations of the petitioner. It is only the baseless allegation of the petitioner that the municipal authorities are threatening to evict the premises only to again undue advantage in the matter and more so the petitioner is not staying in the quarter as informed by the Municipal Commissioner.

5. The 3rd respondent filed counter affidavit narrating several details and several of the allegations were denied and it was averred in paragraph 3 that it is not true to say that the respondents are taking action for disposition of the petitioner from the quarter. It is also not true to say that the petitioner has been allotted the quarter No.8 on sale and allotment basis and paying rents regularly. In fact the petitioner has been allotted quarter No.8 in the year 1966 on rent basis only and the allotment is for residing on rent payment only and not as permanent allotment to her as per the norms and guidelines issued by the Government in its orders. Further, the petitioner never paid the rents regularly. As seen from the municipal records, the petitioner had paid an amount of Rs.14,000/- towards 70 months rent at once i.e., from November, 1992 to December, 1993 and from December, 1993 to August, 1998 nearly 70 months @ Rs.200/- per month on 26.8.1998 by way of demand draft bearing No.279352, dated 21.8.1998. It is also stated that the petitioner never paid the rent regularly and moreover, the following rents are due from the petitioner besides interest:

Year	Due amount
1998-99	1,400/-
1999-2000	2.400/-

2000-2001	2,400/-
2001-2002	2,400/-
2002-2003	2,400/-
2003-2004	7,200/-
	(enhanced rent @ 600/- per month)
2004-2005	7,200/-
2005-2006	7,200/-
2006-2007	4,200/-
	(as on 31.10.2006)
Total amount	43,800/-

It is further stated that the Amalapuram Municipality constructed 10 LIGH quarters in accordance with CR No.161, dated 19.8.1958, and an amount of Rs.1,22,270/- (Rs.48,000 + 48,000 + 26,270/-) was sanctioned by the Government as a loan amount to Amalapuram Municipality under GO Ms.No.116, LA dt. 16.1.1959 and GO Ms.No.586 LA dated 11.3.1959, @ 4 ¾% per annum with a condition that the loan should be repaid in 20 annual instalments inclusive of interest. The penal interest @ 7 ½% per annum will be charged on all over due instalments. Aid under the scheme is purely for the purpose of housing persons whose annual income does not exceed Rs.6,000/- and who do not have own houses, under no loss and no profit basis. The nominal rent was fixed and collected @ Rs.16/- per month from municipal employees and @ Rs.25/- per month to others from February, 193 to October, 1987. The rent was enhanced nominally after a long gap i.e., 25 years, @ Rs.200/- per month from the petitioner w.e.f. 11/87 vide Roc No.4434/87, dt.26.11.87. Actually in accordance with circular No.2 of Housing Department dated 6.6.1986 and

Government Memo No.583/Accounts/D1-85/1, dated 29.5.1986 the rent should be enhanced @ 33 1/3% of every 3 years for municipal employees 10% basis pay. In accordance with GO Ms.No.56, Housing, dated 28.10.1989, wherever the occupancy has been approved municipality, the occupants may be given first option to purchase the quarter on hire purchase basis and where the option has not been availed off, allotment be made to new comers as per rules. It was specifically stated in paragraph 6 that the fixation of sale price under GO Rt No.186, Housing Department, dated 17.7.1999 (1) the cost of land (2) cost of construction (3) cost of internal fittings for water supply, drainage and electricity (4) maintenance (5) interest etc. All these items should be taken into consideration for arriving the sale price amount. The sale price has to be fixed by the C&DMA on receipts of the proposals from the S.E., (PH) Rajahmandry/Engineer-in-Chief (PH) A.P., Hyderabad. The proposal for allotment of quarter No.8 to the petitioner was already submitted to C&DMA., A.P. Hyderabad vide Lr.Roc.No.6895/80-A1, dated 20.7.2006.

6. In the light of the respective stands taken by the parties in the affidavit filed in support of the Writ Petition and also the respective counter affidavits and also in the light of the specific stand taken by the 3rd respondent in paragraph 6 of the counter affidavit that the proposal for allotment of quarter No.8 to the petitioner was already submitted to C & D.M.A., A.P. Hyderabad, vide Lr. Roc. No.6895/80-A1, dated 20.7.2006, this Court is of the considered opinion that the Writ Petition be disposed of directing the respondents to expedite the further steps at an early date. Except making this observation, no further relief can be granted.

7. Accordingly, the Writ Petition is disposed of. No costs.

23.11.2006

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